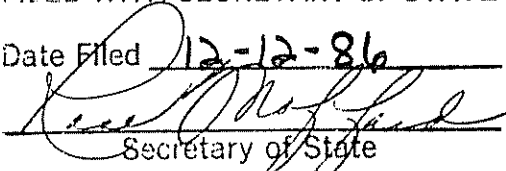


Section: S.R. 360 (Superstition
Freeway) and
Greenfield Road

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF MESA

NO. <u>11635</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>12-12-86</u>
 Secretary of State

THIS AGREEMENT entered into this 12 day of December, 1986, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter called "State", and the City of Mesa, acting by and through its City Council, hereinafter called "City"; and

WHEREAS, State is empowered by Sections 28-108 and 11-952, Arizona Revised Statutes, to enter into this agreement, and has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and the Director of the Arizona Department of Transportation has delegated to the undersigned the authority to execute same on behalf of State; and

WHEREAS, City is empowered by Section 48-572, Arizona Revised Statutes, to enter into this agreement and acting by and through its City Council, has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute same on behalf of City; and

WHEREAS, State has constructed a drainage system for State Route 360 (Superstition Freeway) such that irrigation water is directed into the retention basin system along State Route 360; and

WHEREAS, City agrees to operate and maintain the retention basin system along State Route 360; and

WHEREAS, retention basin system along State Route 360 is intended for storm water and addition of irrigation water causes unnecessary maintenance problems; and

WHEREAS, City desires to construct modifications to the drainage system along State Route 360, and construct a system of pumps and underground pipes to divert irrigation water from the retention basin at Greenfield Road and State Route 360, according to plans attached as Exhibit "A"; and

WHEREAS, State agrees to reimburse City for construction of pumps and underground pipes to divert irrigation water from the retention basin at Greenfield Road and State Route 360, according to reimbursement notations on Exhibit "A".

THEREFORE, the parties hereto agree as follows:

STATE SHALL:

1. Grant to City a permit to enter right of way for U.S. Route 360, for purposes of constructing pipe system necessary to divert irrigation water.

2. Reimburse City for the cost of installing the items noted on Exhibit "A". Cost to be based on actual quantities installed and unit prices bid. Reimbursement to be made within thirty (30) days of receipt of bill.

3. Be released of its obligations and responsibilities under this agreement at such time when construction is complete and the City is reimbursed for a portion of the project costs.

CITY SHALL:

1. Complete plans and administer the contract and construction of the drain system.

2. Assume ownership of said pump and pipe system; and operate and maintain said system when completed.

It is further agreed by and between the parties hereto that:

To the extent permitted by law, State and City agree to defend, indemnify, and hold harmless each other and their agents, officials, employees and subsidiaries, from and against any and all claims, actions, demands, liability, damage, cost and expense of whatsoever character whether direct or indirect, or consequential, including loss or damage to property of either party hereto or of their persons and for the injury or death to any or all persons caused by or attributable to the negligence or fault of the State or City, their employees or agents. As to any liability claims where the parties hereto may be jointly at fault, whether or not a named defendant to an action, the parties agree that they will share in any settlement or judgment in the amount that is proportionate to the degree of negligence or fault of the respective parties as agreed to between them or adjudicated by the courts.

THIS AGREEMENT shall remain in full force and effect until construction of the pump and underground pipe system is completed, and City has assumed ownership and operation of same.

All parties hereto acknowledge that this agreement is subject to cancellation by the Governor pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

This agreement shall become effective on the date of filing same with the Secretary of State.

Attached hereto and incorporated herein by reference is a copy of State's resolution authorizing entry into this agreement, a copy of City's resolution passed by its City Council, a copy of the written determination of the appropriate attorney that City is authorized under the laws of this State to enter into this agreement and that said agreement is in proper form, and a copy of the Attorney General's Intergovernmental Agreement Determination.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF MESA:

By: 

Title: City Manager

STATE OF ARIZONA

ARIZONA DEPARTMENT OF TRANSPORTATION

By: 

W. O. Ford
State Engineer

ATTEST:



Certificate of CITY CLERK

The seal of the City of Mesa, Arizona, featuring a rainbow arching over a stylized cityscape with the word "MESA" in the center.

I, DORTHE DANA, THE DULY APPOINTED, QUALIFIED, AND
ACTING CITY CLERK OF THE CITY OF MESA, MARICOPA
COUNTY, ARIZONA, DO HEREBY CERTIFY THAT THE ATTACHED COPY OF
RESOLUTION NO. 5731, ENTITLED:

RESOLUTION NO. 5731

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF MESA, MARICOPA COUNTY, ARIZONA,
AUTHORIZING THE CITY MANAGER TO EXECUTE
AN INTERGOVERNMENTAL AGREEMENT ON
BEHALF OF THE CITY OF MESA WITH THE
ARIZONA DEPARTMENT OF TRANSPORTATION.

IS A TRUE, CORRECT AND COMPARED COPY OF THE ORIGINAL OF
RECORD, AND ON FILE IN THE OFFICE OF THE CITY CLERK OF THE
CITY OF MESA, ARIZONA.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY
HAND AND SEAL OF THE CITY OF MESA, MARICOPA
COUNTY, STATE OF ARIZONA, THIS 20 DAY OF
MAY, 19 86.

Dorthe Dana
DORTHE DANA
CITY CLERK

CITY OF MESA

1. INSTALL AREA INLET PIS M.A. (C.O.N. POSITION).
2. INSTALL 250 L.I. OF 18-INCH D. 0.003 FT./FT. (C.O.N. PORT).
3. REPORT PLUS AND 105-111-111 OF 0.003 FT./FT. (C.O.N. PORT).
4. INSTALL AREA INLET PIS M.A. (C.O.N. POSITION).
5. INSTALL AREA INLET PIS M.A. (C.O.N. POSITION).
6. INSTALL 184 L.I. OF 24-INCH D. 0.003 FT./FT. (C.O.N. PORT).
7. INSTALL 250 L.I. OF 18-INCH D. 0.003 FT./FT. (C.O.N. PORT).
8. 111-111-111 WITH PIS M.A. (C.O.N. POSITION).
9. INSTALL 11 L.I. OF 20-INCH D. 0.003 FT./FT. (C.O.N. PORT).
10. INSTALL 250 L.I. OF 18-INCH D. 0.003 FT./FT. (C.O.N. PORT).

GREENFIELD ROAD

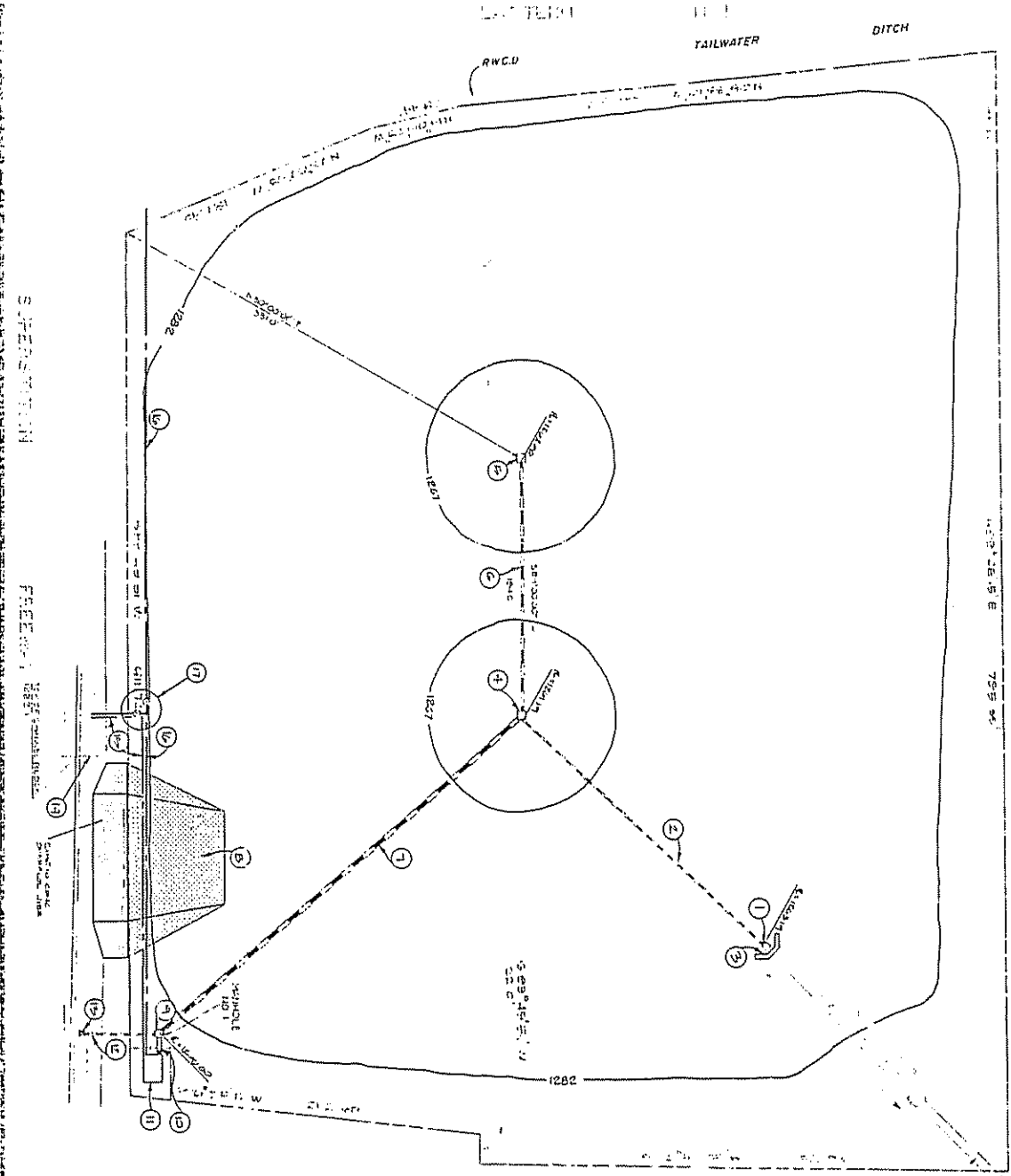
A.D.O.T. POR

11. INSTALL 35 L.I. OF 18-INCH D. 0.003 FT./FT. (C.O.N. PORT).
12. 111-111-111 WITH PIS M.A. (C.O.N. POSITION).
13. INSTALL AREA INLET PIS M.A. (C.O.N. POSITION).
14. REPORT PLUS AND 105-111-111 OF 0.003 FT./FT. (C.O.N. PORT).
15. INSTALL 250 L.I. OF 18-INCH D. 0.003 FT./FT. (C.O.N. PORT).

C.O.M.&A.D.O.T.

16. INSTALL MANHOLE PIS M.A. (C.O.N. POSITION).
17. 111-111-111 WITH PIS M.A. (C.O.N. POSITION).
18. REPORT PLUS AND 105-111-111 OF 0.003 FT./FT. (C.O.N. PORT).
19. INSTALL 250 L.I. OF 18-INCH D. 0.003 FT./FT. (C.O.N. PORT).
20. 111-111-111 WITH PIS M.A. (C.O.N. POSITION).

EXHIBIT	GREENFIELD
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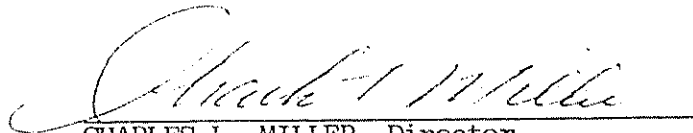
BY PROJECT ENGINEER AND
BY PROFESSIONAL LAND SURVEYOR
DATE 10/28/84

SECTION: Greenfield Road and S.R. 360

RESOLUTION

BE IT RESOLVED on this 14th of July, 19 86, that I, CHARLES L. MILLER, as Director, ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the State of Arizona that the DEPARTMENT OF TRANSPORTATION, acting by and through the Highways Division, enter into an Intergovernmental Agreement with the City of Mesa for the purpose of constructing modifications to the drainage system along State Route 360, and to construct a system of pumps and underground pipes to divert irrigation water from the retention basin at Greenfield Road and State Route 360.

THEREFORE, authorization is hereby given to draft said Agreement which, upon completion, shall be submitted for approval and execution by the State Engineer.


CHARLES L. MILLER, Director
Arizona Department of Transportation

WH:ks

RESOLUTION NO. 5731

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT ON BEHALF OF THE CITY OF MESA WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the Agreement for diverting irrigation water from the storm water retention system along State Route 360, between the City of Mesa, and the State of Arizona, acting through its Department of Transportation, is hereby approved.


Section 2: That the City Manager is authorized and directed, on behalf of the City of Mesa, to execute the agreement, and the City Clerk is authorized and directed to attest to the signature of the City Manager thereon.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 19th day of May, 1986.

APPROVED:

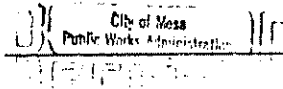

Mayor

ATTEST:


City Clerk

City of Mesa

People • Pride • Progress



55 North Center Street
P.O. Box 1466
Mesa, AZ 85201-0904
(602) 834-2011

MAY 27 1986

OFFICE OF THE CITY ATTORNEY
48 North Macdonald
(602) 964-1421

May 19, 1986

Dean Sloan
Public Works Manager
City of Mesa
P. O. Box 1466
Mesa, Arizona 85201-0904

Re: Intergovernmental Agreement Between the State of Arizona and
the City of Mesa Relating to the Retention Basin System
along State Route 360

Dear Mr. Sloan:

Pursuant to your request, I have reviewed the Intergovernmental Agreement between the State of Arizona, acting through its Department of Transportation, and the City of Mesa relating to the maintenance of the retention basin system along State Route 360 (Superstition Freeway) by constructing pipe system necessary to divert irrigation water from the retention basin at Greenfield Road and State Route 360.

It is my opinion that the City of Mesa is authorized under the laws of the State of Arizona to execute this agreement, and that the agreement is in proper form.

Yours very truly,

CITY OF MESA

By J. Lamar Shelley
J. Lamar Shelley
City Attorney

JLS:jhw



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT


DETERMINATION

A. G. Contract No. KR86-2113 which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 8th day of December, 1986.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division